

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

HOLOGIC, INC., AND CYTYC SURGICAL
PRODUCTS, LLC,

Plaintiffs,

v.

MINERVA SURGICAL, INC.,

Defendant.

C.A. No. 15-1031-JFB-SRF

[PLAINTIFFS' PROPOSED] VERDICT FORM

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INSTRUCTIONS: Please follow the directions provided throughout Verdict Form.

Your answer to each question must be unanimous. Please refer to the Jury Instructions for guidance on the law applicable to each question. Throughout this form, “Hologic” means Plaintiffs Hologic, Inc. and Cytoc Surgical Products, LLC and “Minerva” means Defendant Minerva Surgical, Inc.

1. INFRINGEMENT

Do you find that Hologic has proven, by a preponderance of the evidence, that Minerva infringed any of the following claims of the Patents-in-Suit?

You must answer YES or NO for every claim.

YES is a finding for Hologic. NO is a finding for Minerva.

U.S. Patent No. 6,872,183 (“the ’183 Patent”)		
CLAIM 7	<input type="checkbox"/> YES	<input type="checkbox"/> NO
CLAIM 9	<input type="checkbox"/> YES	<input type="checkbox"/> NO
CLAIM 11	<input type="checkbox"/> YES	<input type="checkbox"/> NO
CLAIM 13	<input type="checkbox"/> YES	<input type="checkbox"/> NO
CLAIM 14	<input type="checkbox"/> YES	<input type="checkbox"/> NO

U.S. Patent No. 9,095,348 (“the ’348 Patent”)		
CLAIM 1	<input type="checkbox"/> YES	<input type="checkbox"/> NO

If you answered YES to at least one claim above, proceed to Question 2. If you answered NO to all claims above, proceed to Question 3.

2. WILLFUL INFRINGEMENT

Do you find that Hologic has proven, by a preponderance of the evidence, that Minerva's infringement has been willful?

YES is a finding for Hologic. NO is a finding for Minerva.

☐ YES

☐ NO

Proceed to Question 3.

3. **ASSIGNOR ESTOPPEL**¹

Do you find that Minerva is in privity with any of the named inventors of the Patents-in-Suit such as Csaba Truckai?

☐ YES

☐ NO

YES is a finding for Hologic. NO is a finding for Minerva.

Proceed to Question 4.

¹ Although proposed herein, Hologic contends that assignor estoppel should be decided as matter of law pursuant to Hologic's pending motion for summary judgment.

4. INVALIDITY (ENABLEMENT UNDER 35 U.S.C. § 112)²

Do you find that Minerva has proven, by clear and convincing evidence, that any of the following claims are invalid for lack of enablement under 35 U.S.C. § 112?

You must answer YES or NO for every claim.

YES is a finding for Minerva. NO is a finding for Hologic.

U.S. Patent No. 6,872,183 (“the ’183 Patent”)		
CLAIM 7	<input type="checkbox"/> YES	<input type="checkbox"/> NO
CLAIM 9	<input type="checkbox"/> YES	<input type="checkbox"/> NO
CLAIM 11	<input type="checkbox"/> YES	<input type="checkbox"/> NO
CLAIM 13	<input type="checkbox"/> YES	<input type="checkbox"/> NO
CLAIM 14	<input type="checkbox"/> YES	<input type="checkbox"/> NO

U.S. Patent No. 9,095,348 (“the ’348 Patent”)		
CLAIM 1	<input type="checkbox"/> YES	<input type="checkbox"/> NO

Proceed to Question 5.

² Although proposed herein, Hologic contends that Minerva’s invalidity defenses and counterclaims are barred by assignor estoppel.

5. INVALIDITY – (WRITTEN DESCRIPTION UNDER 35 U.S.C. § 112)³

Do you find that Minerva has proven, by clear and convincing evidence, that any of the following claims are invalid for lack of written description under 35 U.S.C. § 112?

You must answer YES or NO for every claim.

YES is a finding for Minerva. NO is a finding for Hologic.

U.S. Patent No. 6,872,183 (“the ’183 Patent”)		
CLAIM 7	<input type="checkbox"/> YES	<input type="checkbox"/> NO
CLAIM 9	<input type="checkbox"/> YES	<input type="checkbox"/> NO
CLAIM 11	<input type="checkbox"/> YES	<input type="checkbox"/> NO
CLAIM 13	<input type="checkbox"/> YES	<input type="checkbox"/> NO
CLAIM 14	<input type="checkbox"/> YES	<input type="checkbox"/> NO

U.S. Patent No. 9,095,348 (“the ’348 Patent”)		
CLAIM 1	<input type="checkbox"/> YES	<input type="checkbox"/> NO

Proceed to Question 6.

³ Although proposed herein, Hologic contends that Minerva’s invalidity defenses and counterclaims are barred by assignor estoppel.

6. PATENT DAMAGES

If you found that Minerva infringed at least one valid claim of the Patents-in-Suit, what damages do you find that has Hologic proved, by a preponderance of evidence?

Damages: \$ _____

Proceed to Question 7.

7. UNFAIR COMPETITION (15 U.S.C. § 1125) – HOLOGIC’S CLAIM

7.a Do you find that Hologic has proven, by a preponderance of the evidence, that Minerva engaged in unfair competition under the Lanham Act at 15 U.S.C. § 1125(a)(1)(A)?

YES is a finding for Hologic. NO is a finding for Minerva.

☐ YES

☐ NO

7.b If you found that Minerva engaged in unfair competition under the Lanham Act, do you find that Hologic has proven, by a preponderance of the evidence, that Minerva’s unfair competition has been willful?

YES is a finding for Hologic. NO is a finding for Minerva.

☐ YES

☐ NO

Proceed to Question 8.

**8. DAMAGES FOR UNFAIR COMPETITION (15 U.S.C. § 1125) -
HOLOGIC'S CLAIM**

If you found that Minerva engaged in unfair competition under the Lanham Act (Question 7.a), what damages do you find that Hologic has proved, by a preponderance of evidence?

Damages: \$ _____

Proceed to Question 9.

**9. UNFAIR COMPETITION (DELAWARE COMMON LAW) -
HOLOGIC'S CLAIM**

9.a Do you find that Hologic has proven, by a preponderance of the evidence, that Minerva engaged unfair competition under Delaware common law?

YES is a finding for Hologic. NO is a finding for Minerva.

☐ YES

☐ NO

9.b If you found that Minerva engaged in unfair competition, do you find that Hologic has proven, by a preponderance of the evidence, that Minerva's unfair competition has been willful?

YES is a finding for Hologic. NO is a finding for Minerva.

☐ YES

☐ NO

Proceed to Question 10.

10. DECEPTIVE TRADE PRACTICES (6 DEL. C. § 2352) - HOLOGIC'S CLAIM

10.a Do you find that Hologic has proven, by a preponderance of the evidence, that Minerva engaged in deceptive trade practices under 6 Del. § 2352?

YES is a finding for Hologic. NO is a finding for Minerva.

☐ YES

☐ NO

10.b If you found that Minerva engaged in deceptive trade practices, do you find that Hologic has proven, by a preponderance of the evidence, that Minerva's deceptive trade practices were willful?

YES is a finding for Hologic. NO is a finding for Minerva.

☐ YES

☐ NO

Proceed to Question 11.

**11. TORTIOUS INTERFERENCE (DELAWARE COMMON LAW) -
HOLOGIC'S CLAIM**

11.a Do you find that Hologic has proven, by a preponderance of the evidence, that Minerva tortiously interfered with Hologic's business relationships under Delaware common law?

YES is a finding for Hologic. NO is a finding for Minerva.

☐ YES

☐ NO

11.b If you found that Minerva tortiously interfered with Hologic's business relationships under Delaware common law, do you find that Hologic has proven, by a preponderance of the evidence, that Minerva's tortious interference has been willful?

YES is a finding for Hologic. NO is a finding for Minerva.

☐ YES

☐ NO

Proceed to Question 12.

12. STATE LAW DAMAGES – HOLOGIC’S CLAIMS

12.a If you found that Minerva engaged in unfair competition under Delaware common law (Question 9.a), deceptive trade practices (Question 10.a), or tortious interference (Question 11.a), what damages do you find that Hologic has proved, by a preponderance of the evidence?

This amount should exclude any damages you awarded to Hologic in Question 8.

Damages: \$ _____

12.b If you found that Minerva acted willfully when it engaged in unfair competition under Delaware common law (Question 9.b), deceptive trade practices (Question 10.b), or tortious interference (Question 11.b), what punitive damages, if any, do you award to Hologic?

Punitive Damages: \$ _____

Proceed to Question 13.

13. UNFAIR COMPETITION (15 U.S.C. § 1125) – MINERVA’S CLAIM

13.a Do you find that Minerva has proven, by a preponderance of the evidence, that Hologic engaged in unfair competition under the Lanham Act at 15 U.S.C. § 1125(a)(1)(A)?

YES is a finding for Minerva. NO is a finding for Hologic.

☐ YES

☐ NO

13.b If you found that Hologic engaged in unfair competition under the Lanham Act, do you find that Minerva has proven, by a preponderance of the evidence, that Hologic’s false advertising has been willful?

YES is a finding for Minerva. NO is a finding for Hologic.

☐ YES

☐ NO

Proceed to Question 14.

14. FALSE ADVERTISING (15 U.S.C. § 1125) – MINERVA’S CLAIM

14.a Do you find that Minerva has proven, by a preponderance of the evidence, that Hologic engaged in false advertising under the Lanham Act at 15 U.S.C. § 1125(a)(1)(B)?

YES is a finding for Minerva. NO is a finding for Hologic.

☐ YES

☐ NO

14.b If you found that Hologic engaged in false advertising under the Lanham Act, do you find that Minerva has proven, by a preponderance of the evidence, that Hologic’s false advertising has been willful?

YES is a finding for Minerva. NO is a finding for Hologic.

☐ YES

☐ NO

Proceed to Question 15.

15. DAMAGES FOR UNFAIR COMPETITION AND FALSE ADVERTISING (15 U.S.C. § 1125(a)(1)(A) and § 1125(a)(1)(B)) —MINERVA’S CLAIM

15.a If you found that Hologic engaged in unfair competition under the Lanham Act (Question 13.a), what damages do you find that Minerva has proved, by a preponderance of evidence?

Damages: \$ _____

15.b If you found that Hologic engaged in false advertising under the Lanham Act (Question 14.a), what damages do you find that Minerva has proved, by a preponderance of evidence?

This amount should exclude any damages you awarded to Minerva in Question 15.a.

Damages: \$ _____

Proceed to Question 16.

**16. UNFAIR COMPETITION (DELAWARE COMMON LAW) -
MINERVA'S CLAIM**

16.a Do you find that Minerva has proven, by a preponderance of the evidence, that Hologic engaged unfair competition under Delaware common law?

YES is a finding for Minerva. NO is a finding for Hologic.

☐ YES

☐ NO

16.b If you found that Hologic engaged in unfair competition, do you find that Minerva has proven, by a preponderance of the evidence, that Hologic's unfair competition has been willful?

YES is a finding for Hologic. NO is a finding for Minerva.

☐ YES

☐ NO

Proceed to Question 17.

17. DECEPTIVE TRADE PRACTICES (6 DEL. C. § 2352) – MINERVA’S CLAIM

Do you find that Minerva has proven, by a preponderance of the evidence, that Hologic engaged in deceptive trade practices under 6 Del. § 2352?

YES is a finding for Minerva. NO is a finding for Hologic.

☐ YES

☐ NO

Proceed to Question 18.

**18. TORTIOUS INTERFERENCE (DELAWARE COMMON LAW) -
MINERVA'S CLAIM**

Do you find that Minerva has proven, by a preponderance of the evidence, that Hologic tortiously interfered with Minerva's business relationships under Delaware common law?

YES is a finding for Minerva. NO is a finding for Hologic.

☐ YES

☐ NO

Proceed to Question 19.

19. BREACH OF CONTRACT - MINERVA'S CLAIM

Do you find that Minerva has proven, by a preponderance of the evidence, that Hologic breached any of its obligations under the January 6, 2010 Mutual Non-Disclosure Agreement?

YES is a finding for Minerva. NO is a finding for Hologic.

☐ YES

☐ NO

Proceed to Question 20.

20. STATE LAW DAMAGES – MINERVA’S CLAIMS

20.a If you found that Hologic engaged in unfair competition under Delaware common law (Question 16.a), deceptive trade practices (Question 17.a), tortious interference (Question 18.a), or breach of contract (Question 19.a), what damages do you find that Minerva has proved, by a preponderance of the evidence?

This amount should exclude any damages you awarded to Minerva for violations of the Lanham Act (Questions 15.a and 15.b).

Damages: \$ _____

20.b If you found that Minerva acted willfully when it engaged in unfair competition under Delaware common law (Question 16.a), what punitive damages, if any, do you award to Minerva?

Punitive Damages: \$ _____

You have now reached the end of the verdict form and should review it to ensure it accurately reflects your unanimous determinations.

The Foreperson should sign and date the verdict form in the spaces below and notify the Court Security Officer that you have reached a verdict.

The Foreperson should retain possession of the verdict form and bring it when the jury is brought back into the courtroom.

DATED: _____

FOREPERSON

JUROR

JUROR

JUROR

JUROR

JUROR

JUROR

JUROR

CERTIFICATE OF SERVICE

I, Karen L. Pascale, Esquire, hereby certify that on June 11, 2018, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF (which will send notification that such filing is available for viewing and downloading to all registered counsel), and in addition caused true and correct copies of the foregoing document to be served upon the following counsel of record by electronic mail:

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June 11, 2018

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